

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CHRISTOPHER L. TUCKER,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-11-922-D
)	
(1) CITY OF OKLAHOMA CITY, a)	
municipal corporation,)	
(2) LANCE BEMO, an individual,)	
(3) JURDEN BROWN, an individual,)	
(4) MATHEW NELSON, an individual,)	
(5) JEFF COOPER, an individual,)	
(6) JOHN BLUMENTHAL, an individual,)	
)	
)	
Defendants.)	

PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO AMEND COMPLAINT

COMES NOW the Plaintiff, Christopher L. Tucker (“Plaintiff”), and pursuant to FRCP 15, moves this Court for an Order granting him leave to amend his Original Complaint and relief from responding to Defendants two separate motions to dismiss for failure to state a claim in order to (1) remove Plaintiff’s separate theory of recovery for assault and battery; (2) clarify which Defendants are named on each claim; (3) clarify to which Defendants claims for punitive damages are addressed; and (4) to clarify Plaintiff’s claims being brought under Section 1983. In support of this Motion, Plaintiff would show the Court as follows:

1. Plaintiff filed his Original Complaint on August 17, 2011 [Doc. No. 1].

2. The Original Complaint listed assault and battery as a theory of recovery. The assault and battery referred to by Plaintiff was in reference to a claim for excessive force and a violation of Plaintiff's civil rights.

3. On September 14, 2011, Defendant, City of Oklahoma City filed its Answer [Doc. No. 11] and its Motion to Dismiss [Doc. No. 12]. Plaintiff's Response to such Motion is Due on October 5, 2011.

4. On September 22, 2011, Defendants, Oklahoma City Police Officers Lance Bemo, Jurden Brown, Mathew Nelson, Jeff Cooper and John Blumenthal filed their Answer [Doc. No. 15] and their Motion to Dismiss [Doc. No. 16]. Plaintiff's Response to such Motion is Due on October 13, 2011.

5. This Court has not yet entered a Scheduling Order and therefore there is no deadline established for amending of pleadings.

6. Because Defendants have already filed responsive pleadings, Plaintiff now moves this Court to grant Plaintiff leave to amend his Original Complaint to (1) remove Plaintiff's separate theory of recovery for assault and battery; (2) clarify which Defendants are named on each claim; (3) clarify to which Defendants claims for punitive damages are addressed; and (4) to clarify Plaintiff's claims being brought under Section 1983. This claim is requested pursuant to Fed. R. Civ. P. 15(2).

7. Plaintiff has not previously requested that this Court allow Plaintiff to Amend his Original Complaint.

8. Plaintiff further requests relief for the Plaintiff to file responses to the Defendants' separate motions to dismiss (Docket No. 12 and Docket No. 16) or for the Court to declare such motions as moot pending filing of Plaintiff's Amended Complaint.

9. Plaintiff's counsel has conferred with counsel for the City of Oklahoma City, Richard C. Smith, and counsel for the police officers, Susan Ann Knight, and both counsel have agreed to the requested relief.

REQUESTED RELIEF

WHEREFORE, Plaintiff respectfully requests this Court to enter an Order which grants Plaintiff leave to amend his Original Complaint by filing the Amended Complaint by October 10, 2011 and to grant relief for the Plaintiff to file responses to the Defendants' separate motions to dismiss (Docket No. 12 and Docket No. 16) or for the Court to declare such motions as moot pending filing of Plaintiff's Amended Complaint.

Respectfully submitted,

s/Blake Sonne

Blake Sonne, OBA #20341

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2011, I electronically transmitted the above document to the Clerk of the Court using the ECF filing System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrant:

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**ATTORNEYS FOR DEFENDANTS BEMO, BROWN, NELSON,
COOPER AND BLUMENTHAL**

s/Blake Sonne